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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,890	01/17/2001	Mark J. Bamberger	PCI0727AGPR	6014

7590

03/18/2002

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EXAMINER

HUFF, SHEELA JITENDRA

ART UNIT

PAPER NUMBER

1642

DATE MAILED: 03/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/761,890

Applicant(s)

BAMBERGER ET AL.

Examiner

Sheela J Huff

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The IDS filed 3/23/01 has been made of record and an initialed copy of the PTO-1449 is enclosed.

Priority

Applicant has priority to provisional application 60/180943 filed 2/8/00.

Claim Rejections - 35 USC § 112

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the claims, applicant refers to "ABCA1" and this is defined in the specification as the protein "encoded by the gene cloned by Chimini, as discussed in Luciani et al. (44)". The Luciani et al paper refers to ABC1 and ABC2 not ABCA1. For this reason, it is unclear what applicant means by ABCA1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Lawn et al J. Clin. Invest vol. 104 p. R25 (10/99) as evidenced by Francis et al J. Clin. Invest. Vol. 96 p. 78 (1995).

Lawn et al disclose an assay for "Apo-A-I-mediated efflux of cholesterol and phospholipids from human skin fibroblasts" and the assay was done as described in Francis et al (see page R26, paragraph bridging second and third column). As disclosed in Francis et al (p. 79 first column, third full paragraph and description in the legend of Figure 1), the fibroblasts were loaded with labeled cholesterol (reads on applicant's substrate) and then incubated with apo-A-I (reads on applicant's test compound). A control in the absence of apo-A-I was also done.

Claims 1,5, 6, 9 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Becq et al , JBC vol. 272 p. 2695 (1997) as evidence by applicant's specification at page 8, line 24).

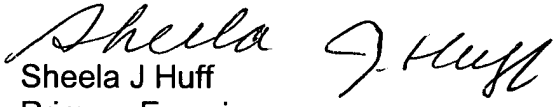
This reference discloses an assay in which oocytes were loaded with labeled iodine (which as disclosed at page 8, line 24 of the spec. is a substrate the ABCA1 assay) and the test compound added is either orthovanadate or camp (see figure 3 and description of "transport Assay" in Materials and Methods Section). Controls in the absence of test compound were also run.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela J Huff whose telephone number is 703-305-7866. The examiner can normally be reached on M,Th 5:30 am-2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.


Sheela J Huff
Primary Examiner
Art Unit 1642

sjh
March 18, 2002